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JAMES H. MCKENNEY,

No. 184.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1905.

THE TRAVELERS INSURANCE COMPANY OF HARTFORD, CONNECTICUT, ... *Plaintiff in Error,*

vs.

HENRY R. PREWITT, INSURANCE COMMISSIONER OF KENTUCKY, ... *Defendant in Error.*

BRIEF FOR THE DEFENDANT IN ERROR.

The plaintiff in error is a non-resident insurance company doing business under a license in the State of Kentucky.

When sued in a State court, it removed the case to the United States Circuit Court, and thereupon the defendant in error, the Insurance Commissioner of Kentucky, was about to revoke the license under Section 631 of the Kentucky Statutes.

Thereupon this action was filed to enjoin him from so doing. A demurrer to his petition was sustained, and his petition dismissed. On appeal, the Court of Appeals affirmed the judgment. Hence this writ of error by the insurance company.

The case is alike in principle with that of the Security Mutual Life Insurance Company against the same defendant in error, and the two cases are to be heard together by consent and with the permission of the court.

The other case, having been advanced to hearing, was fully briefed, and we ask permission to refer to same as our brief

in this case, contenting ourselves with a bare synopsis of the argument in support of our position.

It is our contention:

(1) That the right of a foreign insurance company to do business in a State depends solely on the will of the State.

Paul v. Virginia, 8 Wall. 168;
Hooper v. California, 155 U. S. 650.

And many other cases cited in these cases.

(2) That Sec. 631, Ky. Statutes, is a valid exercise of power to expel the foreign company from the State, although the reason for so doing is, that the company has removed a cause to the Federal courts—the said reason being an immaterial matter.

Doyle v. Continental Ins. Co., 94 U. S. 535;
13 A. & E. Ency. Law, 867;
6 Thompson on Corporations, §7466–67.

And this is not inconsistent with the cases of Home Ins. Co. v. Morse, 20 Wall. 445; Barron v. Burnside, 121 U. S 181; Commonwealth v. E. T. Coal Co., 97 Ky. 238, or Commonwealth v. Jellico Coal Co., 97 Ky. 246.

We respectfully ask an affirmance.

J. H. HAZELRIGG.

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